

# MONITORING MEDIA PLURALISM IN THE DIGITAL ERA

## APPLICATION OF THE MEDIA PLURALISM MONITOR IN THE EUROPEAN UNION, ALBANIA, MONTENEGRO, THE REPUBLIC OF NORTH MACEDONIA, SERBIA & TURKEY IN THE YEAR 2021

Country report: Belgium

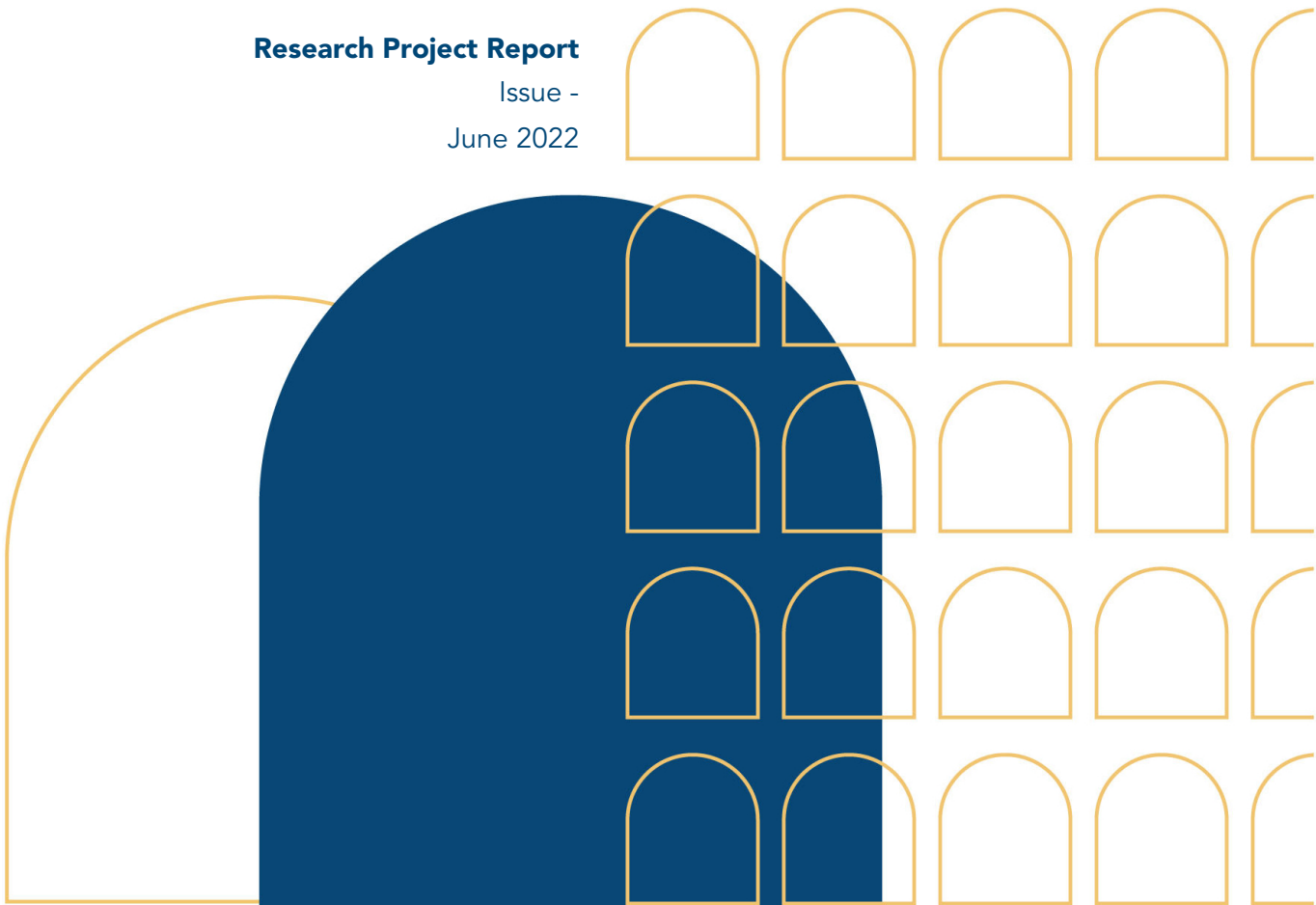
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**Research Project Report**

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# 1. About the project

## 1.1. Overview of the Project

The Media Pluralism Monitor (MPM) is a research tool designed to identify potential risks to media pluralism in the Member States of the European Union and in candidate countries. This narrative report has been produced on the basis of the implementation of the MPM carried out in 2021. The implementation was conducted in 27 EU Member States, as well as in Albania, Montenegro, The Republic of North Macedonia, Serbia and Turkey. This project, under a preparatory action of the European Parliament, was supported by a grant awarded by the European Commission to the Centre for Media Pluralism and Media Freedom (CMPF) at the European University Institute.

## 1.2. Methodological notes

### Authorship and review

The CMPF partners with experienced, independent national researchers to carry out the data collection and to author the narrative reports, except in the case of Italy where data collection is carried out centrally by the CMPF team. The research is based on a standardised questionnaire that was developed by the CMPF.

In Belgium the CMPF partnered with Ingrid Lambrecht and Peggy Valcke (CiTiP - imec - KU Leuven), who conducted the data collection, scored and commented on the variables in the questionnaire and interviewed experts. The report was reviewed by the CMPF staff. Moreover, to ensure accurate and reliable findings, a group of national experts in each country reviewed the answers to particularly evaluative questions (see Annex II for the list of experts). For a list of selected countries, the final country report was peer-reviewed by an independent country expert.

Risks to media pluralism are examined in four main thematic areas: Fundamental Protection, Market Plurality, Political Independence and Social Inclusiveness. The results are based on the assessment of a number of indicators for each thematic area (see Table 1).

<b>Fundamental Protection</b>	<b>Market Plurality</b>	<b>Political Independence</b>	<b>Social Inclusiveness</b>
Protection of freedom of expression	Transparency of media ownership	Political independence of media	Access to media for minorities
Protection of right to information	News media concentration	Editorial autonomy	Access to media for local/regional communities and for community media
Journalistic profession, standards and protection	Online platforms concentration and competition enforcement	Audiovisual media, online platforms and elections	Access to media for women
Independence and effectiveness of the media authority	Media viability	State regulation of resources and support to media sector	Media Literacy
Universal reach of traditional media and access to the Internet	Commercial & owner influence over editorial content	Independence of PSM governance and funding	Protection against illegal and harmful speech

Table 1: Areas and Indicators of the Media Pluralism Monitor

## The digital dimension

*The Monitor does not consider the digital dimension to be an isolated area but, rather, as being intertwined with the traditional media and the existing principles of media pluralism and freedom of expression. Nevertheless, the Monitor also extracts digital-specific risk scores, and the report contains a specific analysis of risks related to the digital news environment.*

## The calculation of risk

*The results for each thematic area and indicator are presented on a scale from 0 to 100%.*

*Scores between 0 and 33%: low risk*

*Scores between 34 and 66%: medium risk*

*Scores between 67 and 100%: high risk*

With regard to indicators, scores of 0 are rated 3% while scores of 100 are rated 97% by default, in order to avoid an assessment of total absence, or certainty, of risk.

**Disclaimer:** The content of the report does not necessarily reflect the views of the CMPF, nor the position of the members composing the Group of Experts. It represents the views of the national country team that carried out the data collection and authored the report. Due to updates and refinements in the questionnaire, MPM2022 scores may not be fully comparable with those in the previous editions of the MPM. For more details regarding the project, see the CMPF report on MPM2022, available on: <http://cmpf.eui.eu/media-pluralism-monitor/>.

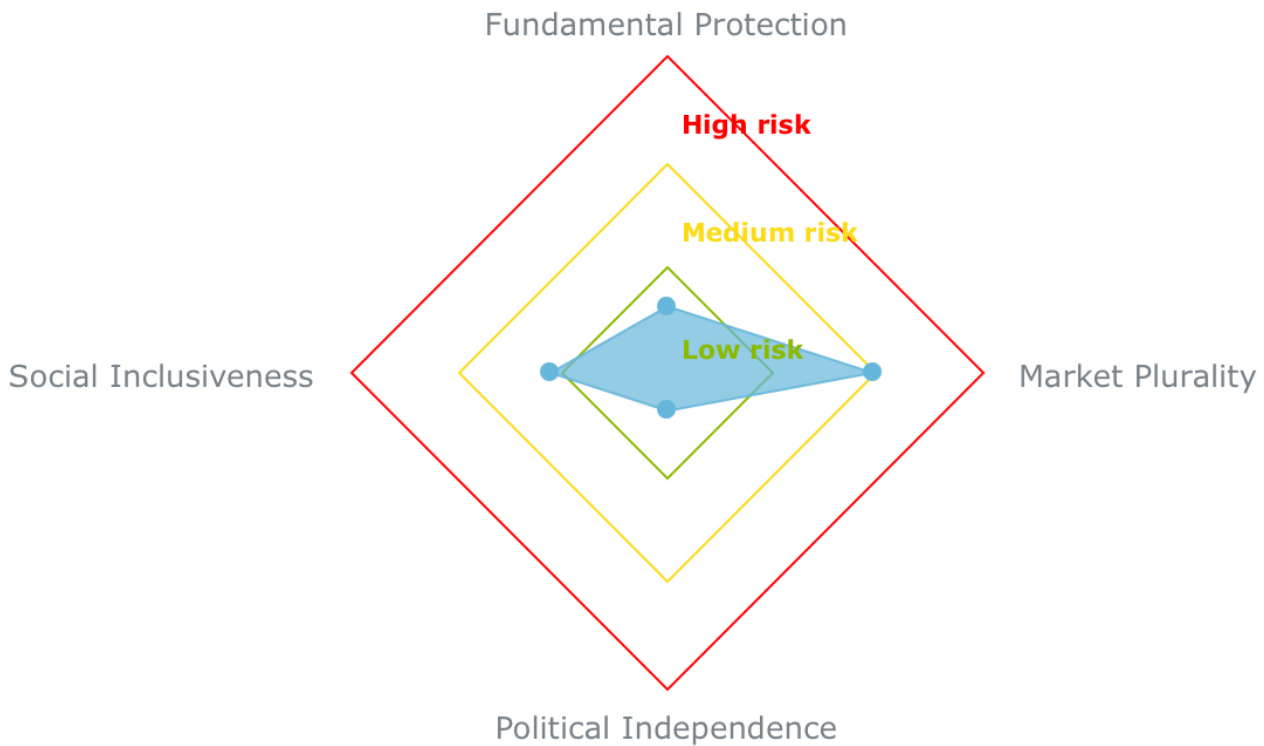
## 2. Introduction

- **Country overview:** Belgium is a country situated in Western Europe, officially called the Kingdom of Belgium. It has a size of approximately 30k km<sup>2</sup> and a population of over 11.5 million. The capital is Brussels. Its institutional organization is complex and is structured on both regional and linguistic grounds. It consists of three regions: the Flemish (Flanders), Walloon (Wallonia), and Brussels-Capital Region. It further consists of three linguistic Communities: the Dutch-/French-, and German-speaking Communities. The Brussels community cuts across these communities as either primary language Community is responsible for its native speakers inhabiting Brussels.
- **Languages:** Belgium has two main linguistic groups: the Dutch-speaking Flemish community (approx. 60% of the population), and the French-speaking community (approx. 40% of the population). Additionally, there is a smaller German-speaking community in the eastern part of Belgium, consisting of approx. 80k citizens.<sup>[1]</sup>
- **Minorities:** For historical reasons, Belgium and its Language Communities in principle refrain from clearly defining and recognizing certain minorities by law. French and Dutch native speakers form a minority in some parts of the country but not in others, so that none may generally be considered a minority, with the exception of the German-speaking population.
- **Economic situation:** Considering its location at the heart of Europe, Belgium has a globalized, serviceoriented economy. The economy's health differs between regions however, with the northern Flanders region generally performing better than the southern Wallonia region.
- **Political situation:** Belgium has a complex myriad of political institutions, which primarily revolve around the linguistic Communities. Since a series of State reforms in 1970, political parties have split across linguistic Communities, so that parties generally have a counterpart representing the interests of their Community. Political parties in Belgium may generally be considered to be political center, with the most popular parties being Christian Democrats, Liberals and Social Democrats, followed by a variety of smaller parties focused on nationalist, specific liberal ('separatism') or environmental themes.
- **Media market:** Economically speaking, there are two media markets: certain media companies concentrate on the north of Belgium with its predominantly Flemish speaking population, whereas other companies address the predominantly French-speaking population in the south of Belgium.<sup>[2][3]</sup> This results in smaller media markets compared to neighbouring countries.<sup>[4]</sup> The Belgian public also has access to a broad range of foreign media outlets, which are especially popular in the French-speaking and German-speaking parts of the country.<sup>[5]</sup>
- **Regulatory environment:** During the 1970 State reforms, Community authorities were given more powers to regulate radio and television broadcasting markets. As a consequence, each Community has its own (audiovisual) media law and a separate media regulator with sometimes varying tasks and competences. The Audiovisual Media Services Directive has been transposed in all the language Communities.<sup>[6]</sup> The autonomy of regional authorities also explains the need to assess both markets separately for those aspects which fall under the competences of the linguistic Communities. It is important to clarify, though, that the Belgian population has in principle access to (nearly) all media outlets provided in both languages irrespective of location.

- **COVID-19:** Like neighbouring countries, the pandemic has had a profound impact on the Belgian media landscape. Perhaps unsurprising however, freelance journalists and smaller - often local and/or nonprofit - media outlets have clearly been hit the hardest. Though a combination of State and Community government efforts to provide additional support measures were a welcome solace for many in the industry, it did not stop the further decline of local media outlets and regional editions throughout 2021. Furthermore, while Belgium has been known to generally score relatively poorly on market concentration, the extent of market consolidation and convergence has proven to benefit the markets' overall resilience to these trying times. At the same time however, we witness a worrisome general atmosphere of distrust and even hostility towards our country's journalists in general, regardless of ideology or affiliation. Though this atmosphere has not reached a point of arbitrary detainment, serious injury, or death, it is imperative we are alerted to these troubling developments and aim to prevent any further escalation.

### 3. Results of the data collection: Assessment of the risks to media pluralism

#### Belgium: Media Pluralism Risk Areas



JS chart by amCharts



Overall, Belgium scores relatively positively, with risk levels showing a minor decrease since the previous implementation round, potentially indicating an ongoing recovery towards pre-pandemic risk levels. Nevertheless, the impact of the Covid-19 pandemic exposed clear challenges which endured, and sometimes worsened, during this implementation period. While the consolidated media sector in Belgium has proven its resilience in light of the pandemic crisis, the overall lower risk assessments should by no means indicate that no risks remain as worrisome trends are found in specific areas such as local and regional media, and the safety of journalists. The crisis has clearly left its marks on the media, which still need further support to ensure its stability and plurality, both on- and offline.

**Fundamental Protection (21% - Low risk).** Belgium scores positively on basic protection of freedom of the press and of expression. Fundamental protection is the only area in which Belgium's scoring showed a noticeable positive change in risk scoring since the previous implementation. The primary factor at play behind this change is that the effectiveness of online remedies appears to be improving as, and especially during pandemic times, platforms became more responsive to reporting and complaints mechanisms, while courts became more consistent at adapting their judgements to the online environment, creating a fair level playing field between offline and online media actors. Nevertheless, there are still some negative developments to report as well, in particular, the worrisome levels of ongoing antagonization against journalists 'in the field'.

**Market Plurality (65% - Medium risk).** In previous implementation rounds, the medium to high risks presented in this area were somewhat counterbalanced by the high standards met by media regulators and



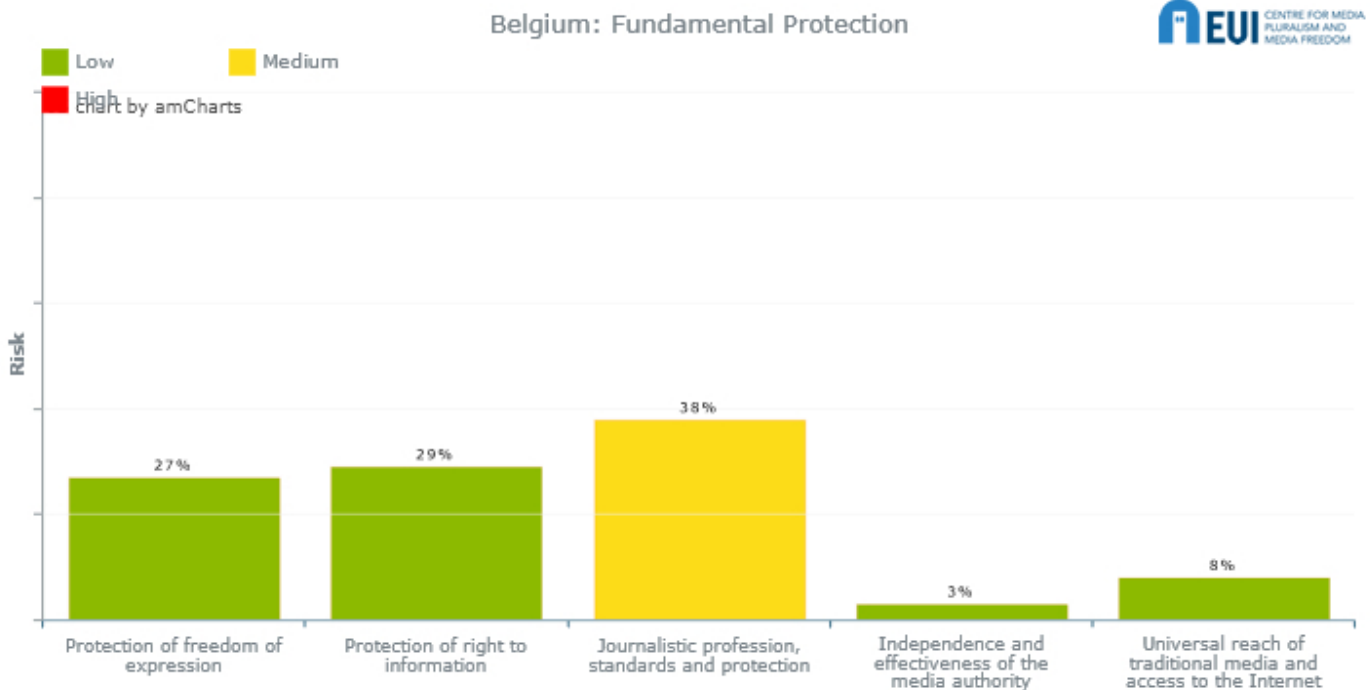
their competences to provide market transparency. However, with the increased attention to the transparency of (ultimate) media ownership and (effective) control over media outlets, including online media, the possibilities to obtain this type of transparency is found wanting in Belgium. Another important factor mitigating the high risks coming from the ever increasing market consolidation, is the positive score for media viability. While it is a welcome solace to find that the media industry has proven resilient, and even somewhat profitable, throughout these trying times, this alone does not suffice to mitigate the risks associated with the alarmingly high levels of market concentration. Most notably, it may obfuscate the increasing concerns of the viability of local media, regional editions and online independent actors.

**Political Independence (12% - Low risk).** Similar to previous years, the political and commercial independence of audiovisual media outlets has been legally enshrined. The same cannot be said for the print media, though a strong and effective co- and self-regulatory framework ensures their independence in practice. Online media actors generally fall within these frameworks, though this may leave some room for improvement in practice. Connected to the area on market plurality is the concern of a general lack of transparency related to digital native actors specifically. As in previous years, the editorial autonomy of these actors is not known to be compromised in practice, but vigilance by all stakeholders involved remains warranted.

**Social Inclusiveness (37% - Medium risk).** In the area of Social Inclusiveness, the risks have generally not changed much over the years. Nevertheless, some positive developments worth mentioning are the latest initiatives on the side of the French Community of Belgium, both in terms of Access to media for women and as regards the increased efforts in support of media literacy in education. However, these two indicators still present some room for improvement. The pandemic has also shown the need to make sure minorities have sufficient access to news and information. It will be interesting to see future results of these renewed efforts in the coming implementations.

### 3.1. Fundamental Protection (21% - low risk)

The Fundamental Protection indicators represent the regulatory backbone of the media sector in every contemporary democracy. They measure a number of potential areas of risk, including the existence and effectiveness of the implementation of regulatory safeguards for freedom of expression and the right to information; the status of journalists in each country, including their protection and ability to work; the independence and effectiveness of the national regulatory bodies that have the competence to regulate the media sector, and the reach of traditional media and access to the Internet.



#### The indicator on Protection of Freedom of Expression scores a low risk (27%)

Though a decrease in risk level since the previous implementation shows an apparent return to a pre-pandemic risk level, the concerns at play remain relevant. The first factor at play in this decrease is the fact that, over a few implementation rounds, court judgments appear to generally abstain from ordering disproportionately high damages claims from journalists in defamation cases. Unfortunately, Belgium maintains its criminalization of defamation, regardless of whether this results in its effective application in practice.<sup>[7]</sup> The second, perhaps more important, factor is the general sentiment that the effectiveness of remedies for individuals appears to be improving in the online environment, with platforms becoming more responsive to reporting and complaints mechanisms, as well as courts becoming better at adapting their judgements to the online environment. However, there is a cautionary tale in this respect, as it has been shown that platforms may excessively filter or block content in order to avoid further government intervention. This may lead to an imbalance towards other fundamental rights. When individuals are enabled to report content without the need to prove or justify such restrictions, legitimate content may be illegitimately blocked or filtered, which in turn calls for further efforts to improve the transparency of online platforms and their blocking and filtering practices. Specifically in the context of media, the absence of tailored regulation or policy framework for platforms to moderate interactions between government officials and journalists, risks resulting in journalists being arbitrarily blocked and access to government information denied.

### **The indicator on Protection of Right to Information scores a low risk (29%)**

The risk level of this variable has been considerably decreasing over the previous implementation rounds, with a minor decrease since the previous round. Though Belgium has been able to maintain a low risk score throughout previous implementations with respect to its legislative and regulatory framework in place for the protection of the right to information<sup>[8]</sup>, there are still medium risks to be found regarding their effective implementation.<sup>[9]</sup> The primary reason for this lies with the persistent concerns regarding the systems in place to access government-held information as they are (still) not as operational as they could be.<sup>[10]</sup> A good starting point would for example be to improve the overall transparency of the system, such as the motivations and decisions made, as well as the amount of requests received and their success rate. Without such transparency, it is proving difficult to truly assess the quality and effectiveness of the systems in practice. Finally, the minor decrease of this year's round is primarily due to the awareness-raising activities related to whistleblowers' protection mechanisms and their rights by the VVJ (Flemish Journalist Association) against the backdrop of the delayed transposition of the EU Directive on whistleblowing. An important reason for this delay is the highly fragmented framework for this protection in Belgium, with various laws applying at federal and regional levels, as well as in civil service and private work environments. The transposition of the new Directive would be able to remedy some of this fragmentation. The federal draft Law was finally accepted by the Council of Ministers in February 2022<sup>[11]</sup>, and that of Flanders was accepted in December 2021<sup>[12]</sup>.

### **The indicator on Journalistic Profession, Standards and Protection scores a medium risk (38%)**

Though it concerns only a minor increase since the previous implementation, the consistency of this increase is however concerning. Previous concerns remain, such as the ongoing SLAPP practices and the work environment for freelance journalists especially. Additionally, ever since the VVJ has developed its platform for journalists to report cases of violence, hate or intimidation, the results indicate a concerning amount of cases.<sup>[14]</sup> It is in this area that the risk marginally increased, as the MPM changed the phrasing of its variables on the possible ill-treatment of female journalists specifically. While previously the variable asked whether female journalists were free from physical threats and attacks and if this happened more than their male counterparts, the variables became more fine-tuned to the situation within a larger context, requesting an assessment of the amount and extent of the issue in practice. The previous answer considered that female journalists were not deemed to be significantly targeted more based on their gender. The current phrasing now allows for the assessment that female journalists are effectively at risk in practice, with female journalists being subjected to various types of threats and attacks, regardless of whether or not these are based on their gender.<sup>[13]</sup>

### **The indicator on Independence and Effectiveness of the Media Authority scores a low risk (3%)**

The indicator remains a consistent 3% across all implementations rounds for three main reasons, all relating to the existing regulatory framework defining the structure and workings of the independent Media Authorities in either language Community.<sup>[15]</sup> Firstly, Belgium upholds formal independence guarantees: being a member in a Media Authority in either language Community is incompatible with a position in their respective Government or with having interests in a media or advertising company.<sup>[17]</sup> Secondly, the selection of experts is based on pre-defined objective criteria. For the Flemish Community the criteria state that media experts must have held a scientific post or teaching post at a Flemish university or at a Flemish institute of higher education leading to higher degrees for at least five years, or must have at least five years of professional experience in the media. In order to be appointed president to the general chamber, it is necessary to have held the position of magistrate in the courts or courts of appeal or in the Council of State for at least five years.<sup>[18]</sup> For the French Community, a general guiding principle is that representation may

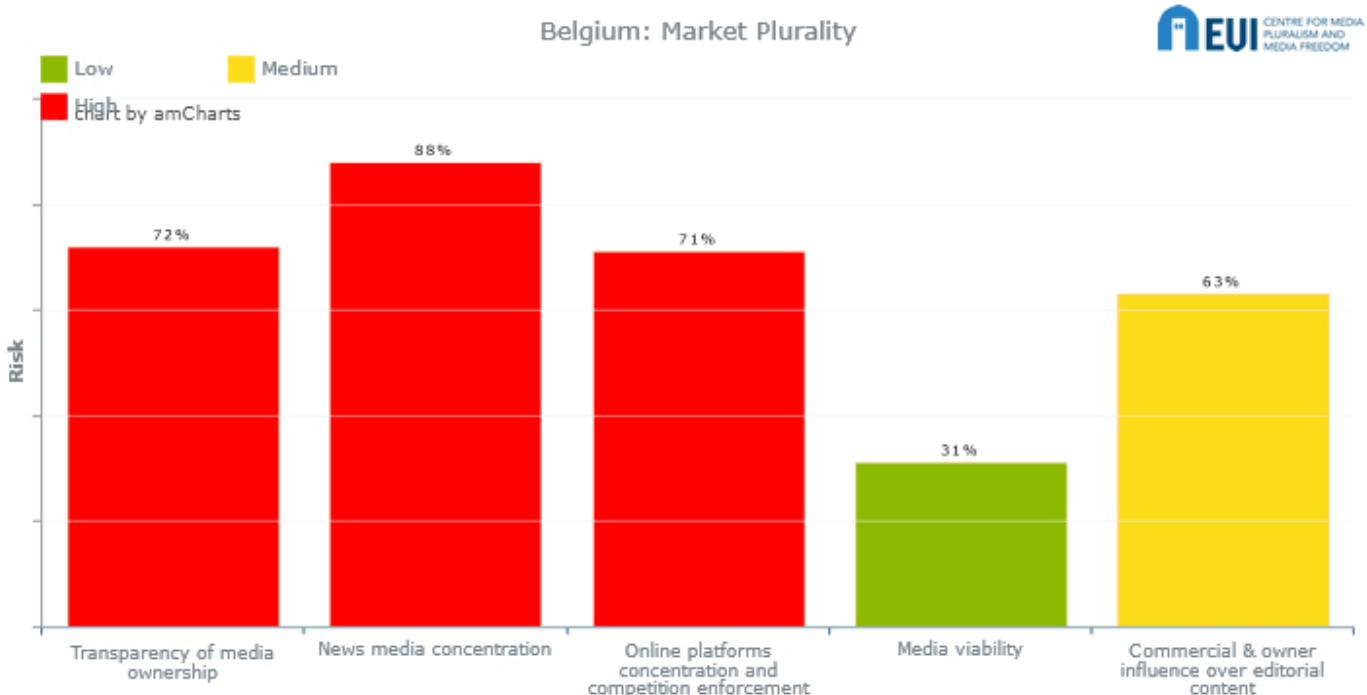
not constitute an unjustified imbalance in favour of any specific ideological point of view. This principle of balanced representation is reflected in the criteria of selection for its members based on their professional background.<sup>[19]</sup> Thirdly, only a court can overturn a decision made by the Authorities, providing the necessary transparency and accountability of the decision-making processes.

**Universal Reach of Traditional Media and Access to the Internet scores a low risk (8%)**

Similarly, the risk score has maintained its low risk score over previous implementations. Though a persistent specific concern remains the high level of concentration on the market for internet access. This remains a low risk, however, considering that the Belgian Institute for Postal Services and Telecommunications (BIPT) continues to be critical and alert of market developments and activities by market actors. Finally, a noteworthy development for 2020-2021, is the progress made to improve the Internet connection speed across the country.<sup>[16]</sup>

**3.2. Market Plurality (65% - medium risk)**

*The Market Plurality area focuses on the economic risks to media pluralism which derive from a lack of transparency and the concentration of ownership, the sustainability of the media industry, the exposure of journalism to commercial interests. The first indicator examines the existence and effectiveness of provisions on the transparency of media ownership. Lack of competition and external pluralism are assessed separately for the news media (production of the news) and for the online platforms (gateways to the news), and we consider separately horizontal and cross-media concentration; the concentration of the online advertising market; and the role of competition enforcement. The indicator on media viability measures the trends in revenues and employment, in relation to GDP trends. The last indicator aims to assess the risks to market plurality that are posed by business interests, in relation to the production of editorial content, both from the influence of commerce and owners.*



### **The indicator on Transparency of media ownership scores a medium risk (72%)**

The score shows a troubling increase from MPM2021's risk score, now reaching high risk levels. The risk increase, similar to that of the previous implementation rounds, pertains to the continued absence of complete information of (ultimate) ownership, especially that of digital (native) news media. The risk indicators refer to the obstacles in the way of ensuring effective disclosure of media ownership to public bodies and/or the public at large. These concerns are especially relevant in relation to the transparency of digital native news media actors for which media regulatory authorities in Belgium have limited data regarding financial or ownership structures. This rings especially true in light of the transparency provided by the digital counterparts of existing media companies. Given the high market concentration, larger media companies in Belgium tend to operate cross-media, including audiovisual media services. As a consequence, these larger companies come within the scope of transparency obligations targeted at the audiovisual media industry, resulting in some transparency related to their digital media activities. While this thus results in some degree of transparency in practice, the information obtained is more incidental than systemic. The fact remains that the absence of transparency provided by and related to digital news media specifically remains an ongoing concern. Though Belgium has a long-standing tradition of leaving non-audiovisual news media relatively free and unsupervised, when assessing potential risks to media pluralism, transparency on their ownership, control and funding is considered essential, including for those active in the online environment.

### **The indicator on News media concentration scores a high risk (88%)**

The current (very) high risk level carries over from the previous implementation round, with no signs of retreating in the near future. Only a handful of media groups own all media outlets on either of the language Community markets. The market and audience concentration shares of the Top4 in any media format remain close to 100%, resulting in very high concentration indices for both markets. An important factor at play is the absence of sector-specific anti-concentration rules. Apart from some restrictions on the accumulation of radio or TV licenses, Community media laws do not contain specific thresholds or procedures for (cross-)media mergers, mainly caused by the division of powers in Belgium between the Federal State and Communities. Nevertheless, general merger control rules evidently also apply to the media sector. As a result, the Belgian Competition Authority occasionally attaches conditions to a merger, but only as part of its consumer welfare analysis.<sup>[20]</sup> There is, however, no explicit legal obligation for the Competition Authority to take into account media pluralism in its competition assessments. Though this has ensured access to media networks and distribution, it has not effectively prevented the current high level of concentration.<sup>[21]</sup> However, it should be borne in mind that, due to the various language overlaps with neighbouring countries, content from media outlets based in France, Germany, Luxemburg and the Netherlands help diversify the available offer in practice.

### **The indicator on Online platforms concentration and competition enforcement scores a high risk (71%)**

This indicator generally scored a higher risk every year. A trend which interestingly ended this year. Though the risk remains high, the noticeable decrease allows for a sense of optimism.<sup>[22]</sup> The indicator concerns the capacity of national and regional media players (e.g. videostreaming services) to compete with international online market players, and their capacity to absorb important economic resources in the online environment, such as advertising revenue and audiences (e.g. side-door access to news and information). The market impact of these international players has incentivised leading Belgian advertising and media companies to

cooperate, first under the banner of the 'Belgian Data Alliance', since mid-way 2020 in the strategic advertising alliance named 'Ads & Data'.<sup>[24]</sup> Though the Competition Authority has previously made judgments on concentration in the advertising area which took into account specifics of the industry in its judgments, regulatory authorities are not always sufficiently equipped to assess the potential harm of these activities, not only to the market, but also to media pluralism. On a similar note, a new variable was introduced to assess the current stage of implementation of the Copyright Directive (EU) 2019/790.<sup>[25]</sup> The Directive aims to introduce new financial agreements between digital intermediaries and news media producers, to remunerate the publishers for the use of copyright-protected content, or to otherwise contribute to their financing. At the time of the data collection, Belgium has a draft law, which has exceeded the intended deadline of the 7th of June, 2021, but will hopefully result in a final Act before the end of 2022.<sup>[26]</sup> Finally, on a more positive note, one of the main drivers for optimism given the sudden decrease in risk is that Belgian citizens appear to be leaving behind platforms and social media as their main way to access news content, and are instead directly browsing to familiar news websites and news services. This marks a positive trend to bring back advertising revenue to Belgian media companies and away from large, international intermediaries. This change in behaviour is likely brought about by the search for information related to the pandemic, as citizens directly went to their trusted news brands to look for information rather than going through social media news feeds. Whether this behavioural trend persists as the crisis levels related to the pandemic decrease, remains to be seen, however.

### **The indicator on Media viability scores a medium risk (31%)**

Rather surprisingly, risks concerning media viability have further decreased since the previous implementation down to a low risk assessment despite the Covid-19 pandemic greatly impacting the media industry. Revenue numbers show an overall stationary to positive result for 2021 which is in large part due to DPG Media's merger, as well as to the overall success of its video streaming services throughout the pandemic crisis. To some extent, the viability of the media sector may be owed to high market concentration, as vertically and horizontally integrated companies were better equipped to spread losses and mitigate income loss caused by the resulting economic harm. This also prevented larger media companies from having to, or limiting the need to, perform lay-offs or similar large budget cuts. It would appear that the media outlets suffering the most are those working on a freelance basis, such as some printed press, local editions and digital native news outlets. As reflected in a medium risk, viability thus appears precarious but manageable, with smaller players being hit the hardest, while larger players managing to obtain somewhat profitable revenues. It should also be noted that for 2021, the report relied primarily on provisional data, so that a future implementation may more accurately reflect media viability for 2021 specifically.

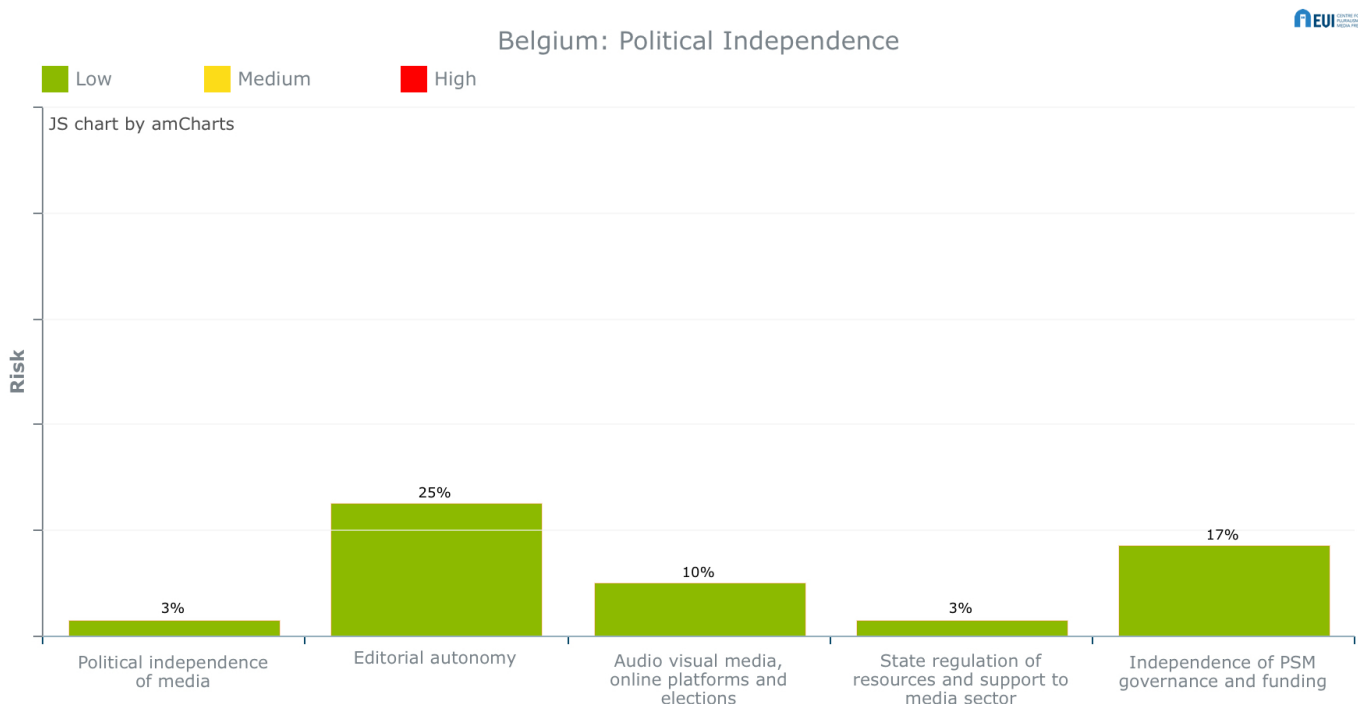
### **The indicator on Commercial and owner influence over editorial content scores a medium risk (63%)**

Belgium's near-high risk has remained the same since the previous implementations. The cause for this high risk primarily lies with the ongoing lack of formal protection for journalists and editors accounting for the risks associated with the profession, such as the necessary protection against changes in editorial lines and undue commercial influences or conflict of interests with management or boards. This rings especially true in relation to press media, which receives these protections via self-regulatory statutes and deontology. While the Social Charter for journalists was previously approved in 2019, there has been no effective implementation resulting in concrete safeguards for journalists.<sup>[27]</sup> Though no sufficient hard evidence may be found of commercial influence on editorial content, experts indicate a growing risk of commercial interests and considerations entering editorial-making processes. Such a potential trend notwithstanding,

regulation of advertising, as well as deontological and ethical standards have consistently been assessed as well-implemented and effective in practice, providing a welcome counterbalance to the potential risks of editorial-decision making becoming influenced in practice.

### 3.3. Political Independence (12% - low risk)

The Political Independence indicators assess the existence and effectiveness of regulatory and self-regulatory safeguards against political bias and political influences over news production, distribution and access. More specifically, the area seeks to evaluate the influence of the State and, more generally, of political power over the functioning of the media market and the independence of the public service media. Furthermore, the area is concerned with the existence and effectiveness of (self)regulation in ensuring editorial independence and the availability of plural political information and viewpoints, in particular during electoral periods.



#### The indicator on Political independence of media scores low risk (3%)

The indicator on political independence stagnates for the first time to the lowest risk possible, as blatantly direct political interferences with the workings of the media appear to remain absent or at the very least reprimanded. Even though such political influence is not immediately known or shown in practice, it is necessary to bear in mind that legal safeguards for political independence only exist for the broadcasting sector (radio and television)<sup>[28]</sup>, in contrast to newspapers and media distribution. This poses concerns for the larger legacy media outlets, but equally so for digital native news outlets. For now, the informal mechanisms in place amongst practitioners appear effective in preserving the political independence of the media in Belgium, including the general constitutional protection of freedom of expression and press freedoms<sup>[29]</sup>, and the effective self-regulatory codes of ethics for journalists.<sup>[30]</sup>

#### The indicator on Editorial autonomy scores low risk (25%)

The risk level for this indicator domain has been slightly decreasing over the years, stopping this year at a stable 25%, indicating a low risk though not without its concerns. As mentioned before, it needs to be noted that there are no regulatory safeguards to guarantee autonomy when appointing and dismissing editors-in-chief. In practice, stakeholders have yet to report cases in which a certain appointment or dismissal was considered politically influenced. Simultaneously, the experts interviewed in the context of this implementation round agree that there is a lack of hard evidence regarding genuine independence from political influences in editorial content. This year, like last year, they could however confirm a positive assessment of this absence, which made it possible to maintain this low risk assessment. However, this indicator should be interpreted in line with those related to the transparency of media ownership, as without the necessary transparency of the online media environment, these indicators may never truly show an assessment of editorial autonomy without risk.

### **The indicator on Audiovisual media, online platforms and elections scores a low risk (10%)**

The low risk assessment has remained relatively similar since the domain's inception in the previous implementation. The risk score remains low thanks to the existence of rules on impartiality and fair political representation on PSM<sup>[31]</sup> and commercial broadcasters<sup>[32]</sup>, as well as evidence of effective implementation of those rules. The low risk assessment of this year's implementation is derived from the results of the various independent studies undertaken to assess the political impartiality of media outlets, both on PSM and on private audiovisual media outlets. An exemplary study in this regard was done by the combined efforts of the VUB (SMIT) and the UA, which investigated reporting trends during the electoral period in the Flemish Community between 2014 and 2019. Though there are differences between the PSM and the private outlets' approach to impartiality, the overall conclusion is that the representation of politicians during election times is done fairly.<sup>[33]</sup> One particular point of concern persists throughout the implementations, however, as there is (still) no specific regulation obliging parties or intermediaries to be transparent to authorities on whether online political advertising campaigns are run fairly and by use of which techniques.

### **The indicator on State regulation of resources and support to media sector scores low risk (3%).**

In the previous implementation round, this area saw a significant drop in risk level primarily due to the increased efforts of the Governments to support their media industry given the impact of the Covid-19 pandemic.<sup>[34]</sup> The previous implementation round had specific attention for measures that were called into effect to help mitigate the negative economic and financial impact caused by the pandemic. The implementation for this year maintained the variables and specific considerations related to the impact of these support measures. While the previous implementation year thus considered the positive effects of the combined efforts of the various Governments, this year maintained that risk as their impact is still positively felt in the industry. However, as some support measures were intended as temporary measures, it remains important to be conscientious of what happens to the industry as these measures are phased out. The pre-pandemic mechanisms were consistently assessed as effective but flawed, commonly due to a lack of transparency regarding the applied criteria or its beneficiaries.<sup>[35]</sup> It would therefore be advised to continue the level of duty and care and any best practices applied during pandemic times also in (future) times of improved stability.

### **The indicator on Independence of PSM governance and funding shows a low risk (17%).**

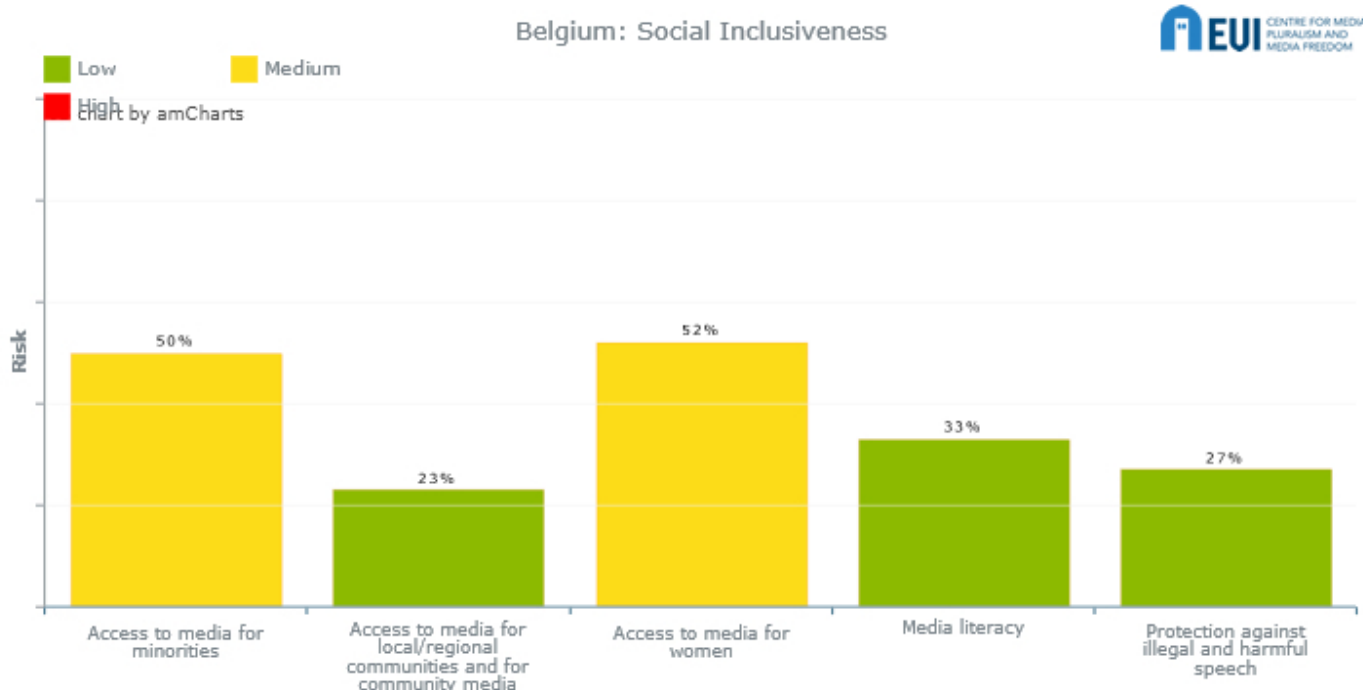
Risks regarding the independence of the PSM again increased, albeit slightly. The traditional low risk comes from extensive regulatory safeguards, overseen by independent regulatory authorities, in both language



communities, with the Council of State as competent appeal mechanism.<sup>[36]</sup> There have been no cases before these bodies that provide any cause of concern in relation to independence of either PSM. However, the increase of the risk is due to two indicators signalling on what grounds the government may base its decision of assigning funds. Risk is considered low if this is done based on a set of objective pre-defined economic criteria, taking into account not to distort competition, including that of the online environment. Considering that this is not the case in Belgium, the independence of the PSM may be considered at risk when the allocation of funds is based solely on non-economic factors.

### 3.4. Social Inclusiveness (37% - medium risk)

*The Social Inclusiveness area focuses on the access to media by specific groups in society: minorities, local and regional communities, women and people with disabilities. It also examines the country's media literacy environment, including the digital skills of the overall population. Finally, it also includes new challenges arising from the uses of digital technologies, which are linked to the Protection against illegal and harmful speech.*



With three indicators set on low risk and two at a medium risk, the risks in the area of Social Inclusiveness have generally not changed much over the years. An important note for this implementation is the lower risk assessment for local and community media. This decrease primarily relates to a different assessment of the risk for this implementation round, as regional broadcasters were qualified as community media for the Flemish Community assessment. On the French Community side, some positive developments worth mentioning are the latest initiatives by the CSA and the CSEM related to the inclusivity of women in media, as regards the increased efforts in support of media literacy in education. It is not entirely surprising to find that these are also the areas with room for improvement as risk indicators, though the pandemic has also shown the need to make sure minorities have sufficient access to news and information. It will be interesting to see future results of these renewed efforts in the coming implementations.

#### **The indicator on Access to media for minorities scores a medium risk (50%)**

In this year's implementation round, the indicator area underwent a minor increase, further pushing this indicator into medium risk. One consistency in this assessment is that, as was mentioned in previous implementations, the different language communities refrain from defining clear categories of minorities, as French and Dutch speakers form a minority outside their language Community. This results in anti-discrimination legislation primarily revolving around general legislation, rather than the protection of access to specific minority groups.<sup>[37]</sup> This is reflected in PSM obligations as well, which state that PSM have the obligation to represent the diverse ideological and sociological groups in society in their programming. This notwithstanding, management contracts of the PSM do set out certain standards to be met regarding diversity, be it regarding their workforce or representation. This year's round indicates that the VRT manages to meet its objectives and obligations in providing the necessary access.<sup>[41]</sup> While the RTBF normally reports these diversity numbers on a bi-annual basis,<sup>[40]</sup> their latest in-depth report was delayed until further into 2022. Furthermore, Belgium scores various medium risks on access to media for people with disabilities. Different institutions and regions in Belgium have policies and regulations in place<sup>[38]</sup>, though in practice this creates a fragmented implementation of measures.<sup>[39]</sup> For example, the CSA made the assessment that "In general, the volume of programmes made accessible had already increased since 2020 on services subject to performance obligations, particularly aimed at people in a situation of hearing impairment. This indirectly lead to a diversification of accessible content. The efforts demonstrated by PSMs in terms of audio description allows for gradual optimism about the increase in programs for people with visual impairments, even if the quantitative results are far from being achieved. Finally, it should be noted that all broadcasters are showing an increased awareness of the criteria set out in the Quality Charter, which are essential to achieving greater programme accessibility. All these elements therefore justify a certain optimism as to the implementation of the obligations of the regulation, at the very least, as regards the gradual increase in the offer of programmes made accessible to people with hearing and visual impairments."<sup>[42]</sup> Similar to the conclusions of previous implementations, however, Belgium would benefit from a thorough revision, streamlining and correct implementation of the existing policies.

### **The indicator on Access to media for local/regional communities and community media scores medium risk (23%)**

This indicator returns to a lower risk assessment primarily in light of a recoding of variables related community media. Despite various government efforts to support local media players to mitigate the impact of the pandemic, the situation for local press media has turned dire, with the distribution of local editions or free press stopping production entirely. The reason that the risk turned lower in spite of these troubling developments is primarily related to a re-coding which occurred for the Flemish Community's local and regional media actors. Similar to last year, the risk also remains low due to the inclusion of popular local editions published by established media players. Furthermore, the wide range of policies in both language communities have resulted in a fragmented system of subsidies and protection of community media. When looking at independent community or local media, the risk is higher since the allocation of support, funds or subsidies is often opaque, but nevertheless present. Similarly, a new variable was introduced to assess whether the PSMs operate with local partners or local editions rather than centralizing its editorial decision-making. This was assessed positively in general, with the exception of the VRT's TV broadcasting. Nevertheless, even here the assessment accounted for the fact that, though the general operations of the VRT are centralized, their mission requires them to stay close to the various communities they are responsible for, including local communities.

### **The indicator on Access to media for women scores a medium risk (52%)**

In 2019, the media regulator of the French speaking Community had started a new monitor on the representation of various groups in the media, including women, which presented its results in 2020.<sup>[43]</sup> It originally increased the risk scoring by 24%. MPM2021 further reported positive progress in this area, but this progress could no longer be tracked for the current implementation as the study was delayed due to the pandemic crisis, with results expected around mid-2022. Even though a positive progression is expected, it is important to note that this area scores the least positive of all indicators in the social inclusivity area, indicating that, regardless of the figures, more can still be done to improve women's access to media. One such example of more efforts comes from the French Community. In 2021, the CSA launched a new initiative to improve the inclusion of women in the media industry, which shows increased awareness and attention to the potential risks at stake.<sup>[44]</sup> Previous findings indicate that women are generally underrepresented in management, board or CEO positions, as well as being underrepresented in news media, both as 'news subjects' and as 'reporters or presenters'.<sup>[45]</sup> When tracking the ratio of female members of management and board functions specifically, concerning low numbers are consistently more prominent in the private industry than the public service media.<sup>[46]</sup> It will therefore be interesting to closely follow these new endeavours and the future release of the diversity studies to more accurately assess the current situation.

### **Belgium scores a low risk on Media literacy (33%)**

The risk for media literacy in Belgium remains low, though this year's implementation round shows a relatively significant increase compared to previous rounds as it comes from a low risk of 25%. This increase primarily relates to the integration of new information, which enabled a more accurate representation of the situation in practice in the French Community. Similar to the considerations made regarding access to media for certain minority groups, the information provided regarding media literacy showed an increasing awareness and attentiveness to the fragmented and/or ineffective policies to improve media literacy in the French Community. In terms of the number of available media literacy initiatives in the country, over the course of the past few implementation rounds, initiatives have come to revolve around two main projects: on the Flemish Community side this is Mediawijs, on the French Community side this is the CSEM. Though this may show a decrease in terms of number, it should not be understood as a decrease in terms of efforts, as both initiatives are actively working towards the betterment of media literacy levels within their respective language Communities.<sup>[47]</sup> Regarding education, there is also a notable difference between the two language Communities. Whereas in the Flemish Community, media literacy is included in formal education and is present within non-formal education settings<sup>[48]</sup>, the same cannot (yet) be said for the French Community. The French Community is currently in the process of adapting this situation however, with various stakeholders and policymakers working together to make this happen.<sup>[49]</sup> Though the risk has therefore increased for this implementation round, the Country Team wishes to add, by way of this narrative report, that there are positive developments in the field of social inclusivity as a whole and that it is looking forward to assessing the results in future implementation rounds. Finally, Belgium, unfortunately, maintains its medium risk regarding the share of internet users that have at least basic digital usage and communication skills, which shows that room for improvement remains.

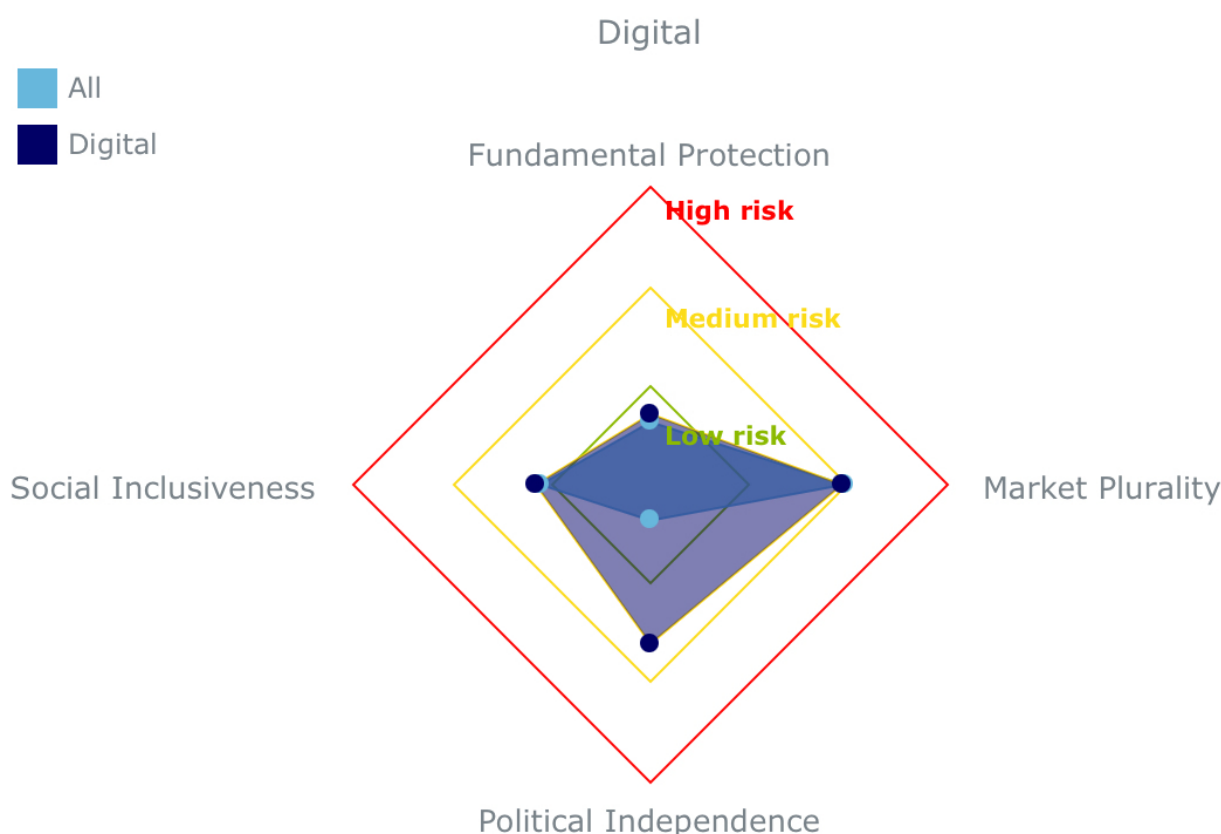
### **Protection against illegal and harmful speech scores a low risk (27%)**

Similar to the previous implementation round, Belgium scores a low risk overall, though not all of it is due to the governments' efforts. Throughout the pandemic, the effects and impact of disinformation has been closely followed by both media practitioners and academia alike.<sup>[50]</sup> The same expert as the previous

implementation round was contacted to update their statement.<sup>[51]</sup> Their assessment remains that the impact and spread of disinformation in the country is relatively limited. For this same reason, the expert adds, passing legislation to address the concerns on disinformation does not present itself as the most effective approach to address these concerns. Consequently, a sudden influx of disinformation would be difficult to grapple on the short-term, though on the longer term, the risk remains relatively low considering the ongoing and effective efforts made by academia and practitioners in the area of fact-checking and awareness-raising, often with the financial support of governments.<sup>[52]</sup> With regard to efforts in the fight against hate speech, the organisation of UNIA was founded on a legal basis to help combat discrimination of minorities and other vulnerable groups in society.<sup>[53]</sup> Their remit includes efforts to combat hate speech against these groups.<sup>[54]</sup> Though there is no publication for 2021 yet, the 2020 report concludes that "As in other years, the number of reports has risen sharply this year, by 11.7% compared to 2019. However, the number of files that Unia opens on this ground is stabilizing. This can be explained, among other things, by the fact that tens, sometimes hundreds of people report the same fact to Unia. The harsh tone on social media continues to mount and the pandemic is sparking a hate speech flare-up."<sup>[55]</sup> While this framework thus presents itself as effective in the fight against hate speech, a sense of urgency may need to be further raised to address the increasing concerns in practice.

## 4. Pluralism in the online environment: assessment of the risks

### Belgium: Media Pluralism Risk Areas



JS chart by amCharts



#### Fundamental Protection (24% Low Risk)

With regard to the protection of freedom of expression in the online environment, a first important note is that the current legislative framework makes no distinction between expressions in the online or offline environment. However, Belgium's Constitution does not prevent legislation from imposing a posteriori restriction on expressions. As a result, restrictive measures present themselves in a wide array of regulations in favour of the protection of other rights, such as anti-discrimination, honour and good reputation, public decency, and privacy and data protection.<sup>[56]</sup> The issue is not limited to a posteriori measures either, as over a decade ago, the ECtHR found the framework for a priori restrictions lacking as well.<sup>[57]</sup> Though, in theory, both types of restrictions may constitute risks to the freedom of expression, in practice, the risk is mitigated by consistent application of both proportionality tests and balancing exercises with other fundamental rights, applicable both on- and offline and thoroughly accounting for each case's characteristics.

Concerning the risks specifically related to the possibility to block and filter content in the online environment, the risk for Belgium primarily rests with online platforms. Though the most popular platforms provide their transparency reports on their blocking and filtering activities, the concern remains that the comprehensiveness and accuracy of these reports are at the discretion of these players.<sup>[59]</sup> While the platforms do provide more information since the inception of their self-regulatory Codes in light of the fight against Covid-19 dis- and misinformation, and while this constitutes an improvement from the situation prior to the EU's Code of Practice on Disinformation, the transparency provided does not meet the requirements as laid out in the description of the MPM's variables as it does not clarify the legal rationale of the online

content removal/filtering/blocking, nor does it categorize a content intervention based on the logic of the removal, nor are there always full repositories publicly accessible. When assessing risks related to data retention, Belgium has (yet again) put in place an improved data retention law in force since May 2021 to better comply with human rights standards.<sup>[63]</sup>

Finally, another important risk to highlight in this implementation round is that, since the VVJ implementation of their platform on which journalists may report any types of aggression towards them, known numbers of cases are rapidly increasing.<sup>[60]</sup> The VVJ reports that there is an ongoing trend of journalists in the field becoming victims of verbal threats and physical intimidation.<sup>[64]</sup> In the case of the online environment specifically, special attention should also be given to the situation of female journalists, and more notably those of ethnic background of a minority group.<sup>[65]</sup> Though it has not (yet) reached the levels of deliberate and grave assault or arbitrary imprisonments, the trend is worrisome and should receive all the necessary care and attention by all stakeholders involved to curb this trend.

### **Market Plurality (62% Medium Risk)**

As was reported in consecutive MPM implementation rounds, digital native news media do not (yet) fall under the competence of the transparency obligations towards their respective Community media regulator. As a result, very little is known about their market share or ownership structures. Though their market share is reportedly relatively limited in comparison legacy actors active in the online environment (with DPG Media, Mediahuis, and Roularta alongside various public service broadcasters capturing the vast majority of audiences online<sup>[68]</sup> Furthermore, there are virtually no cross-media ownership restrictions and no specific thresholds incorporated in media legislation, mainly the result of the division of powers in Belgium limiting each legislator's scope for action. Nevertheless, the media sector is by no means excluded from Federal competition laws, falling within the scope of competence of the Belgian Competition Authority. Despite not having an explicit obligation to take into consideration media pluralism aspects, the Authority has made due regard for media pluralism aspects in its interventions, limited, however, to a consumer welfare and accessibility analyses.<sup>[69]</sup> Risk scores also increase when looking at the effects of online platforms and social media. 41% of Belgians access news through platforms and intermediaries.<sup>[70]</sup> While this is an impressive improvement, it still creates risks to the media's traditional advertising revenue model. In response, in 2021, three of the larger media actors active in the field of digital advertising (Telenet, Mediahuis, Proximus en Pebble Media), have entered into a strategic alliance (Ads&Data) to improve their competitiveness with the largest actor in the field (DPG Media), as well as international actors (such as Google and Facebook).<sup>[71]</sup> Considering this initiative is currently increasing effective competition rather than limiting it there has been no publicly known investigation from the Competition Authority. Nevertheless, the Flemish Media Authority is closely following up on this new initiative in its reporting.<sup>[72]</sup>

### **Political Independence (55% Medium Risk)**

The risk for political independence in the online environment showed an exceptional risk increase since the previous implementation, even more so considering the very minor decrease in risks in this area as a whole, seemingly furthering the gap between risks for the offline and online environment. Similar to the remark about transparency on the ownership structures of digital natives, the overall absence of transparency poses risks in relation to political control over these media outlets. Though press traditions in Belgium result in generally more ideologically coloured media, a tradition which has continued as press media moved into the online environment, no direct control is hitherto openly discovered.<sup>[75]</sup> Though the absence of information makes it difficult to assess whether digital native outlets take ideological stances out of their own volition or caused by an ultimate owner or controller influencing their editorial decision-making. The risk at stake is

therefore not so much that Belgium has a particular issue with its openly ideologically biased online media outlets, but rather that an absence of information makes it impossible to effectively assess their political independence in reality. A similar concern arises in relation to their ability to protect themselves against undue commercial influences. As shown by the variables related to market plurality as well, online journalists generally work as freelancers and freelancers are among those media professionals hit the hardest by the impact of the Covid-19 pandemic.<sup>[76]</sup> Even though in 2019, the Social Charter for journalists was finally approved, it has yet to result in concrete safeguards in practice.<sup>[74]</sup> In the meantime, though freelancers were given some financial and social welfare support by their respective Governments in times of Covid, they are reported to sometimes not suffice or be flawed. This precarious state inevitably puts them at risk of becoming unduly influenced in practice.

Another important topic to address is the risks with relation to political campaigning in the online environment. On the one hand, online political advertising is covered by the election expenditure rules and previous guidance by the supervising Electoral Commission which stated that political parties should conduct privacy-friendly election campaign and respect the GDPR and all its implementations.<sup>[77]</sup> On the other hand, such measures are as of yet incapable of preventing political parties of capturing excessive amounts of online advertising space for their campaigns, effectively risking an imbalanced representation of political parties campaigning in the online environment. Furthermore, not every party is equally transparent about the manner in which they organise their online campaigns, be it transparency on which platforms they chose to advertise on, or whether or not their campaign was based on personalized or targeted advertising techniques. Though social media platforms themselves generally appear capable of accurately indicating whether a certain ad is political, including the option for users to indicate an ad is political, this alone does not suffice to prevent online media users from being exposed to an imbalanced representation of political parties.<sup>[78]</sup>

### **Social Inclusiveness (38% Medium Risk)**

Since the start of the Covid-19 pandemic, Belgium has greatly increased its efforts in the fight against disinformation, with various initiatives by a variety of stakeholders and practitioners, most of them with Government support in some shape or form.<sup>[79]</sup> In the previous edition of the MPM, an academic expert in the area of disinformation argued that the problem of disinformation for Belgium remained limited, or at the very least manageable. For this implementation of MPM, the sentiment in the follow-up expert interview is generally the same, though this stability is largely owed to the successful and effective efforts by the aforementioned initiatives.<sup>[80]</sup> On a similar note, the interviewed expert finds that, as far as could be publicly known, there is no political party in Belgium that excessively and/or deliberately spreads disinformation for political gains. This is in line with a 2021 master thesis which studied the effects of fact-checking on politicians' attitudes after becoming corrected, from which positive conclusions are drawn. When politicians are fact-checked they are likely to accept this correction and are more likely to become more cautious in making similar claims.<sup>[83]</sup> The limited risks in this area should therefore by no means be considered a reason to cut back on ongoing efforts to fact-check or on efforts to raise awareness with the general public on the dangers and nature of online disinformation. This latter point is especially important considering the fact that Belgium maintains medium risk assessments in relation to its share of internet users with at least basic digital usage and communication skills.<sup>[82]</sup>

In relation to concerns of hate speech in the online environment, similar remarks may be made in comparison to the previous implementation round. UNIA, as the legally assigned institute that monitors and acts against discrimination in the country, annually reports on its efforts in the fight against hate speech targeted at the vulnerable in our society.<sup>[84]</sup> Since 2020, the trends show that UNIA has effectively been

prosecuting and following up on hate speech cases on social media. While the number of ongoing reported cases has increased, UNIA may become underequipped to handle the rising amount of cases.<sup>[81]</sup> On a related note, UNIA is not competent to do the same for discriminatory treatment based on gender. Instead, gender discrimination falls within the scope of the Institute for the Equal Treatment of Men and Women. While this Institute does a great variety of work, tackling hate speech online is not one of the reported activities, leaving a gap in relation to this specific concern.<sup>[85]</sup> Nevertheless, from more specific academic research we find that women do experience troubling amount of hate speech in the online environment, giving rise to concerns regarding this gap in policy efforts to address this issue.<sup>[86]</sup>



## 5. Conclusions

Overall, Belgium scores relatively positively, but risk levels have increased since 2021. This is partly due to the ongoing impact of the Covid-19 pandemic and the challenges it exposed in its aftermath. With regard to the basic protection area, for example, risk increases were related to the pandemic as it directly affected working conditions for media practitioners. Belgium's media sector has proven relatively resilient to the crisis. High market consolidation played an important part in this, as it provided some economic stability to the industry and its practitioners. Furthermore, the pandemic has been a driver for governments to improve their support mechanisms. Finally, new sources are added in each MPM implementation round based on new initiatives and information available by relevant stakeholders. These sometimes present positive trends (e.g. an absence of abusive litigation against whistleblowers and rising efforts to improve media literacy and access to media) or negative trends (e.g. more detailed information on cases of violence, intimidation and hate speech against media practitioners). Thanks to these increasing efforts of stakeholders and experts in Belgium to monitor various aspects of the media in Belgium, findings continuously become a more accurate reflection of reality with every MPM implementation. As such, it is clear that several traditional risks persist throughout the years. Below is a list of considerations based on the MPM risk assessments that may benefit the situation of media pluralism in Belgium.

### Fundamental Protection

- **Amending criminal laws with a view to decriminalizing defamation;**
- **Ensuring better access to effective legal remedies for victims of harmful and illegal content on online platforms, by proactively implementing and providing transparency of future DSA obligations.**
- **Extending responsibilities of Independent Media Authorities to monitor (more effectively) and remedy risks in relation to online and social media, without unduly compromising their capacities or resources;**
- **Improving transparency and efficiency of the process to obtain government-held information, including the motivations for denial and the processes of appeal;**
- **Transpose and implement the EU's whistle-blower protection mechanisms in a manner capable of remedying some of the existing gaps and inefficiencies due to the various competent bodies and institutions in this area;**
- **Improving awareness of and responsiveness to the need to ensure the safety and protection of journalists 'in the field' in cooperation with the relevant stakeholders and associations;**
- **Implementing effective anti-SLAPP regulation, capable of preventing arbitrary and unlawful attempts to silence legitimate professional journalistic activities;**

### Market Plurality

- **Ensure the necessary resources to Independent Media Authorities to monitor effective media pluralism for their respective communities;**
- **Extending competencies for the to request information from media actors, regardless of the media sector, in order to increase transparency on ownership, control and finances;**
- **Reinforcing the role of Independent Media Authorities in mergers & acquisitions in the media sector and/or include an explicit obligation for the Competition Authority to consider media pluralism consideration in competition cases;**
- **Developing additional legal safeguards for the professional independence of journalists and editors-in-chief across all media formats;**

## **Political Independence**

- **Extending electoral legislation and regulations on electoral campaigning to include transparency on the techniques and data used during online political campaigns;**
- **Assigning the Belgian DPA the competence to monitor the fairness and legality of the above activities;**
- **When assigning PSM budgets, establish objective pre-defined economic criteria which account for possible distortions of market competition, to complement other criteria for a fair quantification of the budget;**

## **Social Inclusiveness**

- **Streamlining and monitoring of both PSM and commercial media actor efforts to ensure access to media for individuals with a physical or sensory impairment in an inclusive and comprehensive manner, i.e. to ensure the measures' pertinence and effectivity;**
- **Increasing existing efforts by relevant organisations to monitor and follow up on cases of hate speech targeted at women specifically, with special attention for their safety in the online environment;**
- **Streamlining subsidies and protection of local and community media, including clarifying the objective criteria on the basis of which support may be granted and with special attention for press media;**

## 6. Notes

- [1] The Communities mainly have powers in the domains of culture (theatre, libraries, audiovisual media, etc.) education, health care, social welfare and protection of youth.
- [2] No separate market for German-speaking media has been assessed, given the small scale of it. This was decided by the research team already during the previous implementation rounds, in consultation with the stakeholders and the Medienrat (the media regulator of the German-speaking Community in Belgium). Only three local media providers are active in the German-speaking Community, solely offering radio services (BRF, Offener Kanal Ostbelgien and Private Sender). The media policy of the bilingual region Brussels-capital falls within the competences of both the Flemish and French Community. Media consumption in that region has been considered in assessing both markets.
- [3] Valcke, P., Groebel, J. and Bittner, M., 2016. Media Ownership and Concentration in Belgium -Noam, E. (ed.), Who Owns the World's Media? Media Concentration around the World, Oxford University Press
- [4] For more information, see Valcke, P., Picard, R., Sükösd, M., Sanders J. et al, 2009. Independent study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach, European Commission, Volume 2: User Guide, 358 et seq.
- [5] For more information about online news consumption in Belgium see: RISJ Digital Report 2020, p. 64, accessible at <https://www.digitalnewsreport.org/>.
- [6] For the French speaking Community: Decreet betreffende audiovisuele mediadiensten en videoplatformdiensten, 4 februari 2021, [https://www.ejustice.just.fgov.be/cgi/article\\_body.pl?language=nl&caller=summary&pub\\_date=21-03-26&numac=2021020568](https://www.ejustice.just.fgov.be/cgi/article_body.pl?language=nl&caller=summary&pub_date=21-03-26&numac=2021020568); For the Flemish Community: Decreet betreffende Radio-omroep en televisie, 2009, zoals laatst gewijzigd bij Decreet van 4 februari 2022, Belgisch Staatsblad, 21 februari 2022, [https://www.vlaamseregulatormedia.be/sites/default/files/media-decreet\\_27\\_maart\\_2009\\_23\\_versie\\_04022022.pdf](https://www.vlaamseregulatormedia.be/sites/default/files/media-decreet_27_maart_2009_23_versie_04022022.pdf)
- [7] Art. 14, Belgische Grondwet, 1831, available at: [https://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=nl&table\\_name=wet&la=N&cn=1994021730](https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&table_name=wet&la=N&cn=1994021730); Chapter 5, Strafwetboek, 8 juni 1867, available at <http://www.ejustice.just.fgov.be/eli/wet/1867/06/08/1867060850/justel>; Wet van 30 juli 1981 tot bestraffing van bepaalde door racisme of xenofobie ingegeven daden (Antiracismewet), 10 mei 2007, available at <http://www.ejustice.just.fgov.be/eli/wet/2007/05/10/2007002097/staatsblad>
- [8] Wet tot wijziging van de wet van 11 april 1994 betreffende de openbaarheid van bestuur en de wet van 12 november 1997 betreffende de openbaarheid van bestuur in de provincies en gemeenten, 26 juni 2000, [https://www.ejustice.just.fgov.be/cgi/article\\_body.pl?language=nl&caller=summary&pub\\_date=00-07-15&numac=2000000537](https://www.ejustice.just.fgov.be/cgi/article_body.pl?language=nl&caller=summary&pub_date=00-07-15&numac=2000000537)
- [9] See for example an earlier judgement by the Council of State, RvS (7e k.) nr. 227.394, 15 mei 2014: "If the administration refuses to grant access to or to provide a copy of an administrative document, based on an mandatory ground of exception, it has to motivate this decision in concreto. A refusal in abstracto is not possible."
- [10] See for example the criticisms expressed by the VVJ in 'Open brief VVJ aan de Vlaamse wetgever over wijzigingen aan het Bestuursdecreet m.b.t. de openbaarheid van bestuur', 2021, available at <https://journalist.be/2021/06/open-brief-vvj-aan-de-vlaamse-wetgever-over-wijzigingen-aan-het-bestuursdecreet-m-b-t-de-openbaarheid-van-bestuur>; see also the critical annual reporting by the supervisory Committee: 'Commissie voor de toegang tot en het hergebruik van bestuursdocumenten - Jaarverslag 2020 - 2021', available at <https://www.ibz.rrn.fgov.be/nl/commissies/openbaarheid-van-bestuur/jaarverslagen/>
- [11] Voorontwerp van wet inzake de bescherming van personen die inbreuken op het Unierecht of op het nationale recht binnen een privaatrechtelijke rechtspersoon melden, more information available at: <http://www.ejustice.just.fgov.be/nl/legislatie/initiatieven/voorontwerpen/wet-inzake-de-bescherming-van-personen-die-inbreuken-op-het-unierecht-of-op-het-nationale-recht-binnen-een-privatrechtelijke-rechtspersoon-melden>

s://news.belgium.be/nl/omzetting-van-de-europese-richtlijn-inzake-de-bescherming-van-de-klokkenluiders

- [12] Ontwerp van decreet tot wijziging van het Provinciedecreet van 9 december 2005, het decreet van 22 december 2017 over het lokaal bestuur en het Bestuursdecreet van 7 december 2018, wat betreft klokkenluiders, <https://lokaalbestuur.vlaanderen.be/beslissing-vlareg/voorontwerp-decreet-klokkenluiders>
- [13] See for example a summary of the situation as reported by the VVJ: "Online agressie treft gekleurde vrouwelijke journalisten zwaar", 2021, VVJ, available at: <https://journalist.be/2022/01/online-agressie-treft-gekleurde-vrouwelijke-journalisten-zwaar>
- [14] The platform may be found at: <https://journalist.be/2019/03/vvj-richt-meldpunt-in-voor-agressie-tegen-journalisten>
- [15] Flemish Community Radio and Television Broadcasting Act (FIRTA), 2009, available at: <https://www.vlaamseregulatormedia.be/nl/mediadecreet-en-wetgeving>; French Community Broadcasting Act (FRAMSA), 2021, [https://etaamb.openjustice.be/nl/decreet-van-04-februari-2021\\_n2021020568.html](https://etaamb.openjustice.be/nl/decreet-van-04-februari-2021_n2021020568.html)
- [16] Belgium currently ranks 25th in the world rankings of internet connections speed based on the data of the Worldwide broadband speed league 2021 (Cable.co.uk), available at <https://www.cable.co.uk/broadband/speed/worldwide-speed-league/#map>.
- [17] art. 216 FIRTA and art. 134 FRAMSA
- [18] art. 215 FIRTA
- [19] Art. 9.1.2 of FRAMSA (2021)
- [20] resulting for example in remedies that aim to preserve the number of newspaper titles such as with the Mediahuis merger, in which the parties committed to maintain all existing newspaper titles in the next five years and guaranteed that these newspapers would have their own editorial staff and dedicated editor-in-chief; see Decision BMA-2013-C/C-03, 25 October 2013.
- [21] See for example a more recent Decision by the BMA, which ordered the supervision of specific conditions laid upon a merger, being: the access of TV platforms to the channels of De Vijver Media, the ranking of channels in the digital channel and program guide of the Telenet platform, the distribution fees, access for broadcasters to the platform that allows them to advertise on the set-top boxes of the customers of the Telenet platform and access to viewing data for channels distributed on the Telenet platform, Decision BMA-2019-C/C-16, 13 May 2019, Persbericht Nr. 14/2019.
- [22] See also chapter 4.1 of this report for a more in-depth assessment of these developments.
- [23] Note that this new cooperation no longer includes the Flemish PSM. More information about the project can be found on: <https://www.adsanddata.be/over-ons/>
- [24] The alliance consists of the three of the larger media actors active in the field of digital advertising (Telenet, Mediahuis, Proximus en Pebble Media), which entered into a strategic alliance (Ads&Data) to improve their competitiveness with the largest actor in the field (DPG Media), as well as international actors (such as Google and Facebook). Considering this initiative is currently increasing effective competition rather than limiting it there has been no publicly known investigation from the Competition Authority. Nevertheless, the Flemish Media Authority is closely following up on this new initiative in its reporting (2021 report, p.84-86) Also note that the Flemish PSM is no longer included since the previous initiative (Belgian Data Alliance) ended. More information about this alliance can be found on: <https://www.adsanddata.be/over-ons/>
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Voorontwerp van wet tot omzetting van Richtlijn (EU) 2019/790 van het Europees parlement en de Raad van 17 april 2019 inzake auteursrechten en naburige rechten in de digitale eengemaakte markt en tot wijziging van Richtlijnen 96/9/EG en 2001/29/EG

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- [30] For the Flemish Community, please find the competent self-regulatory body (RvdJ) and its regulations at: <https://www.rvdj.be/>; for the French speaking Community, please find the competent self-regulatory body (CdJ) and its regulations at: <https://www.lecdj.be/fr/>.
- [31] VRT e.g. OD3.1 Beheersovereenkomst 2021-2025, <https://www.vrt.be/nl/over-de-vrt/beheersovereenkomst/>; RTBF, e.g. art. 6.2, Contrat de gestion 2019-2022, <https://www.csa.be/wp-content/uploads/2019/01/CG-RTBF-2019-2022-version-2-post-1er-avenant.pdf>
- [32] See for example Art. 130, 163, 174 of FIRTA; art. 3.1.1-3.1.3 FRAMSA.
- [33] T. Raats et al., "De onpartijdigheid van het VRT-aanbod", 2021, for a summary and link to the full report, please visit: <https://journalist.be/2021/02/vrt-en-vtm-bieden-evenwichtige-berichtgeving>.
- [34] For an overview of these additional support measures in the Flemish Community, please visit: <https://www.vlaanderen.be/cjm/nl/noodfonds-media>
- [35] For the assessment of these measures made by the VVJ, please read 'Journalistiek anno primo corona: jaarrapport VVJ 2020', VVJ, 2021, available at: <https://journalist.be/2021/02/journalistiek-anno-primo-corona-jaarrapport-vvj-2020>
- [36] Part II of the Flemish Media Decree, 2009, <https://www.vlaamseregulatormedia.be/nl/mediadecreet-en-wetgeving>; Book VII of the French Community Media Decree, 2021, [https://etaamb.openjustice.be/nl/decreet-van-04-februari-2021\\_n2021020568.html](https://etaamb.openjustice.be/nl/decreet-van-04-februari-2021_n2021020568.html)
- [37] art. 11 Belgische Grondwet; Wet van 10 mei 2007 ter bestrijding van bepaalde vormen van discriminatie (de Antidiscriminatiewet)
- [38] art. 40 RTBF Contrat de gestion 2019-2022; VRT beheersovereenkomst 2021-2025; art. 151, Flemish Community Radio and Television Broadcasting Act (FIRTA) - 2009; French Community Broadcasting Act (FRAMSA) - 2009 ; CSA, Charte qualité en matière d'accessibilité des programmes - 2019; Règlement du 17/07/2018 à l'attention des éditeurs linéaires / non linéaires et des distributeurs; Charte et Guide de bonnes pratiques du Collège d'Avis du 26/11/2019
- [39] Bevraging van personen met een handicap over de naleving van hun rechten - Unia - 2020
- [40] See for example their results for 2019: CSA, Les résultats de la vague 2018 du baromètre de la diversité, 2019
- [41] VRT, Jaarverslag 2020, 2021; VRT, Diversiteitsmonitor 2019, 2020
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- [50] See for example the efforts by the VUB (SMIT) in the context of the EDMO BELUX (<https://today.vub.be/nl/artikel/vub-co-rdineert-hub-voor-digitale-media-en-desinformatie>); RISJ, Digital News Report 2021; see also a thesis on the topic: "Can fact-checking prevent politicians from repeating misinformation?" Jelmer van Aert, 2021, UA, which resulted in a positive answer to the research question.
- [51] Interview with disinformation expert prof. dr. Peter Van Aelst, held via Zoom on 16/02/2022
- [52] Examples of such efforts are: Factcheck.Vlaanderen, Textgain, FactRank Pro and EDUBox Fake news
- [53] Wet van 19 januari 2014 houdende instemming met het samenwerkingsakkoord van 12 juni 2013 tot oprichting van een interfederaal Centrum voor gelijke kansen en bestrijding van discriminatie en racisme ('UNIA')
- [54] art. 3-5 van de Ordonnantie van 3 april 2014 houdende instemming met het Samenwerkingsakkoord van 12 juni 2013 tussen de Federale Overheid, de Gewesten en de Gemeenschappen voor de oprichting van het interfederaal Centrum voor gelijke kansen en bestrijding van discriminatie en racisme onder de vorm van een gemeenschappelijke instelling zoals bedoeld in artikel 92bis van de bijzondere wet van 8 augustus 1980.
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## ANNEXE I. COUNTRY TEAM

First name	Last name	Position	Institution	MPM2022 CT Leader
<i>Ingrid</i>	<i>Lambrecht</i>	<i>PhD Researcher</i>	<i>CiTIP - imec - KU Leuven</i>	
<i>Peggy</i>	<i>Valcke</i>	<i>Prof. Dr.</i>	<i>CiTIP - imec - KU Leuven</i>	X

## ANNEXE II. GROUP OF EXPERTS

The Group of Experts is composed of specialists with a substantial knowledge and recognized experience in the field of media. The role of the Group of Experts was to review the answers of the country team to 16 variables out of the 200 that make up the MPM2022. Consulting the point of view of recognized experts was aimed at maximizing the objectivity of the replies given to variables whose evaluation could be considered as being subjective, and, therefore, to ensure the accuracy of the final results of the MPM. However, it is important to highlight that the final country report does not necessarily reflect the individual views of the experts who participated. It only represents the views of the national country team that carried out the data collection and authored the report.

First name	Last name	Position	Institution
<i>Leen</i>	<i>d'Haenens</i>	<i>Professor</i>	<i>IMS - KU Leuven</i>
<i>Johan</i>	<i>Cassimon</i>	<i>Legal/Economic Research Unit Member</i>	<i>Vlaamse Regulator voor de Media</i>
<i>Charlotte</i>	<i>Michils</i>	<i>Juridisch adviseur</i>	<i>VVJ/AVBB (Algemene Vereniging van Beroepsjournalisten/Vlaamse Vereniging van Journalisten)</i>
<i>Jonathan</i>	<i>Van de Velde</i>	<i>Representative of a media association</i>	<i>Medianet Vlaanderen vzw</i>
<i>Jonas</i>	<i>Frojmovics</i>	<i>French Community Media Regulator</i>	<i>CSA</i>

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